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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/313,079	05/17/1999	TOMOAKI KOJIMA	Q54398	3430

7590 06/27/2003
SUGHRUE MION ZINN MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE N W
WASHINGTON, DC 200373202

EXAMINER

TRAN, PHUC H

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 06/27/2003

M

Please find below and/or attached an Office communication concerning this application or proceeding.

B

Office Action Summary

Application No.

09/313,079

Applicant(s)

KOJIMA, TOMOAKI

Examiner

PHUC H TRAN

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,4 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,4 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3, 4, & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soumiya et al. (U.S. Patent No. 5696764) in view of Ichikawa (U.S. Patent No. 6301253 B1).

- With respect to claims 3, 4 & 12, teaches ATM switch comprising:

a buffer device which comprises a buffer section having a plurality of buffers and a cell reading section for reading data from the buffer section (e.g. shared buffer 62, blocks 71b, and 71c in Fig. 8);

a data input/output device which comprises a data input section for inputting data from an external source, a data output the data, and a first data transceiver section for performing reception and transmission with respect to the data (e.g. the mux 61 and demux 64 combined, in Fig. 7);

a data processing device which comprises a second data transceiver for performing reception and transmission of data in connection with the first data transceiver section (e.g. the QoS control portion 70), a data analysis section for analyzing the data received from the second data transceiver and a data reading/setting section (illustrated in Fig. 8);

and wherein the data input/output device is capable of inputting and outputting data regarding a service class of a buffer as a service category and a QoS class (e.g. col. 18, lines 35-41, lines 54-67).

Soumiya fails to teach the data processing device is capable of adding and storing new data regarding at least one of a new service category and a new QoS class. Ichikawa teaches the of buffer regarding to the QoS (col. 8, lines 25-38) for providing QoS and controlling the traffic in communication system. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to implement the method of changing a state of buffer to meet the QoS and control the traffic in the communication.

Response to Arguments

3. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

The following claim 4 was indicated allowable by examiner in previous office action; however, these claims are unpatentable in view of new arts. Therefore, these indicated claims are withdrawn.

Applicant's arguments with respect to claims 3, 4 and 12 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H TRAN whose telephone number is (703) 308-7471. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on (703) 308-5463. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 872-9314.

Phuc Tran
Assistant Examiner
Art Unit 2664

P.t
June 25, 2003

DANG TON
PRIMARY EXAMINER